



Washington State
Office of Administrative Hearings
www.oah.wa.gov

Your Hearing Rights in a DSHS Case

What is An Administrative Hearing?

An administrative hearing is a legal proceeding held by an impartial decision-maker called an Administrative Law Judge (ALJ). The ALJ is an attorney who works for an independent state agency called the Office of Administrative Hearings (OAH). The ALJ is not an employee of the Department of Social and Health Services (DSHS). At the hearing, you and a representative for DSHS will give the ALJ information about your case. The ALJ will consider the facts and the law and will send you a written decision after the hearing. Administrative hearings are designed to be informal and are usually held in conference rooms. You will be scheduled to appear for the hearing either in person or by telephone.

Do I Need An Attorney?

Many people represent themselves at the hearing. You may represent yourself or be represented by an attorney, paralegal, friend, relative, or other person. The state cannot pay for your attorney or representative. For information on free legal services in your area, call the Coordinated Legal Education, Advice, and Referral System (CLEAR) at 1-888-201-1014 (toll free) or (206) 464-1519 in Seattle. Northwest Justice Project, Columbia Legal Services, the Northwest Women's Law Center, some law schools, mental health regional support networks, and other non-profit legal organizations may be able to provide assistance. You may also ask friends or relatives to recommend an attorney, or contact your county's bar association or referral services (usually listed in the telephone book yellow pages at the end of the "attorney" section).

What Happens Before The Hearing?

You or your representative may contact the DSHS representative if you would like to try to settle your case before the hearing, or if you have questions about DSHS rules and policies. The DSHS representative will review the case, explain DSHS policies, rules, and regulations and if they find an error in the case they will correct the error. If you cannot reach an agreement, you still have the right to a hearing. If you are receiving public assistance, you may be able to get continued benefits until the hearing decision is made. If you are entitled to child support, you may ask for temporary support. You should discuss these issues with the DSHS representative. DSHS representative's address and phone number are located at the bottom of your Notice of Hearing.

How Will I Find Out When My Hearing Will Be Held?

OAH will mail you a Notice of Hearing that will tell you if the hearing is in person or by telephone. The notice will give the date and time of the hearing and, if in person, the place of the hearing. If you need to change the time or date, please call the DSHS representative as soon as possible. Only the ALJ can permit a change, but the ALJ will want to know if the DSHS representative and any other parties agree or disagree with your request for a change. You can contact OAH to ask that the hearing be rescheduled, even if the other parties disagree or do not respond.

What If My Hearing Is By Telephone?

You, the ALJ, witnesses, or one or more of the other people involved in the hearing may be scheduled to participate by telephone. Your hearing notice will tell you if you should go to an office or wait by a telephone for a call. Be sure that OAH has your phone number and the ALJ does not get a busy signal when he or she tries to call you. If you have papers you want the ALJ to see in the hearing, you should send a copy to the ALJ and to every other party at least one week before the hearing. The DSHS representative may be able to help you with this.

If you want an in person hearing you should contact OAH. If your hearing is about public assistance you have a right to an in person hearing. If the issue is not about public assistance, you will need to have a good reason to change the hearing to be in person.

What If I Need A Language Interpreter?

If you or a witness need a language interpreter, OAH will provide one at no cost to you. You should ask for an interpreter immediately. (See enclosed REQUEST FOR INTERPRETER form). A friend or relative cannot be your language interpreter at the hearing.

What Happens At A Hearing?

The ALJ will start the hearing by explaining what issues will be discussed and what will happen during the hearing. All hearings are tape recorded or recorded by a court reporter. All testimony is under oath or affirmation. Usually the DSHS representative will present the DSHS case first. Each party will have a chance to testify, ask questions of the other parties, and present documents. The ALJ may also ask questions. After all testimony is given, each party may make a closing statement. The ALJ will tell you when the decision will be issued.

What Should I Bring To The Hearing?

The ALJ's decision will be based only on information that you, witnesses, and the DSHS representative provide. Any information provided may be subject to the Public Records Act. It is helpful to write some notes and bring them with you to help you organize your presentation and remember everything you want to say.

Documents:

If you are appearing in person for the hearing, be sure to bring any documents to the ALJ when you come to the hearing if you have not already sent them in. You can and should send documents to the ALJ and to all other parties as far in advance of the hearing as possible. You may bring witnesses or their signed, sworn, and dated statements. All other parties have the right to see your proof, and to know who your witnesses are before the hearing. If you have personal information, such as addresses and phone numbers, in your documents you do not want the other side to know, you are responsible for deleting it before submitting the documents.

Depending on the type of case, you should be prepared to give the ALJ:

- The notice that DSHS sent you that caused you to request a hearing.
- Documents that will show that your claims are correct.
- Documents that DSHS has told you that you need to bring to the hearing.
- Proof of any special or financial circumstances that you want the ALJ to consider.

For child support hearings, you should also bring the following:

- tax returns for last two years (and for any other years you are contesting)
- child support worksheets
- court orders affecting your child support
- current pay stubs, benefit statements, or disability payment records
- medical costs or health insurance costs for the children
- proof of any support paid or anything else you want the ALJ to consider.

What Happens If I Do Not Participate In The Hearing?

If you asked for a hearing but do not participate in the hearing, your case may be dismissed and you may not be able to appeal this problem again. If another party asked for the hearing and you do not participate, a hearing may be held without your input and a decision may be issued that affects you.

What Are My Rights During The Hearing Process?

You Have The Right To:

- Be represented by anyone, such as an attorney, paralegal, friend, or relative. The state cannot arrange for or pay for this help.
- Present evidence and object to evidence presented by anyone else.
- Ask for a continuance (reschedule) in starting or completing the hearing. You will need to have a good reason for the continuance.
- Look at and obtain copies of documents related to your case. You should call the DSHS representative for information on how to do this.
- Obtain, in advance, the evidence that DSHS intends to use at the hearing.
- Ask the ALJ to let you send in more evidence after the hearing.
- Look at and obtain copies of laws, rules, guidelines, and DSHS publications that relate to your hearing.

- Bring your witnesses and/or to ask the ALJ to make witnesses take part in the hearing. You may also ask the ALJ to have witnesses send or bring necessary documents to the hearing. DSHS has the right to present its own witnesses and to question yours.
- Ask witnesses questions, object to testimony, and present evidence to show that the testimony of any witness is not true.
- Ask the ALJ to order witnesses to wait out-side the hearing room. This can help protect privacy or keep one witness from influencing another.
- Ask that a telephone hearing be changed to an "in person" hearing, or an "in person" hearing be changed to a telephone hearing. "In person" means you and the ALJ will be in the same room during the hearing.
- Know the name of the ALJ assigned to hear your case.
- Object to the ALJ assigned to your case and request a different ALJ.

How and When Will the ALJ Decide?

The ALJ's decision will be based on the facts presented in the case. It will also be based on DSHS regulations and other laws that apply to your case. The DSHS regulations are listed on the bot-tom of your Notice of Hearing and in the DSHS notice you are disagreeing with. It is a good idea to read and learn as much as you can about these rules before the hearing. Ask the DSHS representative for assistance and information. You can find the regulations in any law library and most public libraries. You can also look up the regulations on the Internet at: <http://slc.leg.wa.gov/wacbytitle.htm>. The ALJ will not normally make a decision at the hearing. The written decision (called an Initial Order or a Final Order, depending on the type of case) will be mailed within 16 days for public assistance cases, within 20 days for child support cases, and within 30 to 60 days for most other cases.

What Happens If I Disagree with the Hearing Decision?

In the same envelope with your Initial or Final Order, you will receive information on how to request review or reconsideration if you disagree with the Order. If you disagree with the ALJ's Initial Order, you have the right to request review by the DSHS Board of Appeals (BOA). BOA must receive your request for review within 21 calendar days from the date stamped on the Initial Order. If you disagree with the ALJ's Final Order, you have the right to request that the ALJ reconsider that Order. Your request for reconsideration must be received by the ALJ within 10 calendar days of the date stamped on the Final Order. You also have the right to request review of the Final Order by the Superior Court.

What if I Need Special Accommodations?

If you or a witness is hearing, sight or speech impaired and needs special assistance (such as a sign language interpreter or alternate format materials) or if you need to make other special arrangements to participate in the hearing process, contact the OAH office listed on your Notice of Hearing immediately so that arrangements can be made. You will be provided help at no cost to you.

To obtain this publication in an alternate format (such as large print, Braille, or cassette tape) contact the ADA Coordinator at the address listed below.

What Are The OAH Policies Regarding Non Discrimination And Equal Access?

The Washington State Office of Administrative Hearings does not discriminate against any person in employment or in access to its facilities or services on the basis of disability, race, color, national origin, creed, sex, age, marital status, veterans status, sexual orientation, or ability to speak English.

Persons alleging unequal treatment, denial of equal access, or desiring additional information about accommodations should contact:

Office of Administrative Hearings
Attn: ADA Coordinator
PO Box 42488
Olympia, WA 98504-2488
(360) 664-8717
FAX (360) 664-8721
TTY 1-800-833-6388

How Can I Get More Information?

If you have questions about your hearing, call the telephone number of the OAH office listed on your Notice of Hearing. You can also obtain general information at the OAH website:

<http://www.oah.wa.gov>.

Headquarters:

Office of Administrative Hearings
919 Lakeridge Way SW, 2nd Fl
PO Box 42488
Olympia WA 98504-2488
(360) 664-8717
FAX (360) 664-8721

Everett:

Office of Administrative Hearings
2722 Colby Avenue, Suite 610
Everett WA 98201-3571
(425) 339-1921
1-800-583-8261
FAX (425) 339-3907

Seattle:

Office of Administrative Hearings
1904 3rd Avenue, Suite 722
Seattle WA 98101-1100
(206) 464-6322
1-800-583-8270
FAX (206) 587-5136

Vancouver:

800 Franklin Street, 1st Floor
Vancouver WA 98660
(360) 690-7189
1-800-243-3451
FAX (360) 696-6255

Olympia:

Office of Administrative Hearings
2420 Bristol Court SW, 3rd Fl
PO Box 42489
Olympia WA 98504-2489
(360) 753-2531
1-800-583-8271
FAX (360) 586-6563

Spokane:

Office of Administrative Hearings
136 South Arthur Street
Spokane WA 99202-2254
(509) 533-2466
1-800-366-0955
FAX (509) 533-2473

Yakima:

Office of Administrative Hearings
32 North 3rd Street, Suite 320
Yakima WA 98901-2730
(509) 575-2147
1-800-843-3491
FAX (509) 454-7281